

DEPARTMENT OF ENVIRONMENTAL QUALITY
Environmental Assessment

PERMITTING AND COMPLIANCE DIVISION
Water Protection Bureau

Name of Project: The Department of Environmental Quality (DEQ) will issue a Montana Pollutant Discharge Elimination System (MPDES) permit for the Custer Area/Yellowstone County Water and Sewer District's wastewater treatment facility.

Type of Project: The DEQ proposes to issue the MPDES permit for the wastewater treatment facility that serves the town of Custer. Domestic wastewater will be treated in a three-cell facultative lagoon. Discharge will be to the Yellowstone River.

Location of Project: One-half mile east of Colstrip.

Description of Project: MPDES permit issuance. The Environmental Protection Agency issued a NPDES permit in 1974 but since the lagoon cells leaked and there was not a discharge to surface water the permit was allowed to expire. The lagoons will be upgraded so they will not leak.

Agency Action and Applicable Regulations: The proposed action is to renew the MPDES permit for a five-year period.

ARM Title 17, Chapter 30, Sub-chapter 2 - Water Quality Permit Application and Annual Fees.

ARM Title 17, Chapter 30, Sub-chapter 5 - Mixing Zones in Surface and Ground Water.

ARM Title 17, Chapter 30, Sub-chapter 6 - Surface Water Quality Standards.

ARM Title 17, Chapter 30, Sub-chapter 7 - Nondegradation of Water Quality.

ARM Title 17, Chapter 30, Sub-chapter 12 and 13 - Montana Pollutant Discharge Elimination System Standards.

Montana Water Quality Act, MCA 75-5-101 et. seq.

Summary of Issues: Nondegradation limitations are not applicable because the facility was in place before April 29, 1993.

Benefits and Purpose of Action: The permit will ensure compliance with the Montana Water Quality Act and protect beneficial uses of the Yellowstone River.

Affected Environment & Impacts of the Proposed Project:

Y = Impacts may occur (explain under Potential Impacts). Include frequency, duration (long or short term), magnitude, and context for any significant impacts identified. Reference other permit analyses when appropriate (ex: statement of basis). Address significant impacts related to substantive issues and concerns. Identify reasonable feasible mitigation measures (before and after) where significant impacts cannot be avoided and note any irreversible or irretrievable impacts. Include background information on affected environment if necessary to discussion.

N = Not present or No Impact will likely occur. Use negative declarations where appropriate (wetlands, T&E, Cultural Resources).

IMPACTS ON THE PHYSICAL ENVIRONMENT	
RESOURCE	[Y/N] POTENTIAL IMPACTS AND MITIGATION MEASURES
1. GEOLOGY AND SOIL QUALITY, STABILITY AND MOISTURE: Are soils present which are fragile, erosive, susceptible to compaction, or unstable? Are there unusual or unstable geologic features? Are there special reclamation considerations?	[N]
2. WATER QUALITY, QUANTITY AND DISTRIBUTION: Are important surface or groundwater resources present? Is there potential for violation of ambient water quality standards, drinking water maximum contaminant levels, or degradation of water quality?	[N] The lagoon cells will be upgraded so they will not leak to groundwater and so they will meet surface water quality effluent limitations. These improvements will protect beneficial uses of the Yellowstone River.
3. AIR QUALITY: Will pollutants or particulate be produced? Is the project influenced by air quality regulations or zones (Class I airshed)?	[N]
4. VEGETATION COVER, QUANTITY AND QUALITY: Will vegetative communities be significantly impacted? Are any rare plants or cover types present?	[N]
5. TERRESTRIAL, AVIAN AND AQUATIC LIFE AND HABITATS: Is there substantial use of the area by important wildlife, birds or fish?	[N]
6. UNIQUE, ENDANGERED, FRAGILE OR LIMITED ENVIRONMENTAL RESOURCES: Are any federally listed threatened or endangered species or identified habitat present? Any wetlands? Species of special concern?	[N]
7. HISTORICAL AND ARCHAEOLOGICAL SITES: Are any historical, archaeological or paleontological resources present?	[N]
8. AESTHETICS: Is the project on a prominent topographic feature? Will it be visible from populated or scenic areas? Will there be excessive noise or light?	[N]
9. LAND USE: (waste disposal, agricultural lands [grazing, cropland, forest lands, prime farmland], recreational lands [waterways, parks, playgrounds, open space, federal lands), access, commercial and industrial facilities [production & activity, growth or decline], growth, land-use change, development activity)	[N]
10. IMPACTS ON OTHER ENVIRONMENTAL RESOURCES: Are there other activities nearby that will affect the project?	[N]

IMPACTS ON THE HUMAN ENVIRONMENT	
RESOURCE	[Y/N] POTENTIAL IMPACTS AND MITIGATION MEASURES
11. HUMAN HEALTH AND SAFETY: Will this project add to health and safety risks in the area?	[N]
12. INDUSTRIAL, COMMERCIAL AND AGRICULTURAL ACTIVITIES AND PRODUCTION: Will the project add to or alter these activities?	[N]
13. QUANTITY AND DISTRIBUTION OF EMPLOYMENT: Will the project create, move or eliminate jobs? If so, estimated number.	[N]
14. LOCAL AND STATE TAX BASE AND TAX REVENUES: Will the project create or eliminate tax revenue?	[N]
15. DEMAND FOR GOVERNMENT SERVICES: Will substantial traffic be added to existing roads? Will other services (fire protection, police, schools, etc.) be needed?	[N]
16. LOCALLY ADOPTED ENVIRONMENTAL PLANS AND GOALS: Are there State, County, City, USFS, BLM, Tribal, etc. zoning or management plans in effect?	[N]
17. ACCESS TO AND QUALITY OF RECREATIONAL AND WILDERNESS ACTIVITIES: Are wilderness or recreational areas nearby or accessed through this tract? Is there recreational potential within the tract?	[N]
18. DENSITY AND DISTRIBUTION OF POPULATION AND HOUSING: Will the project add to the population and require additional housing?	[N]
19. SOCIAL STRUCTURES AND MORES: Is some disruption of native or traditional lifestyles or communities possible?	[N]
20. CULTURAL UNIQUENESS AND DIVERSITY: Will the action cause a shift in some unique quality of the area?	[N]
21. OTHER APPROPRIATE SOCIAL AND ECONOMIC CIRCUMSTANCES:	[N]
22(a). PRIVATE PROPERTY IMPACTS: Are we regulating the use of private property under a regulatory statute adopted pursuant to the police power of the state? (Property management, grants of financial assistance, and the exercise of the power of eminent domain are not within this category.) If not, no further analysis is required.	[N]
22(b). PRIVATE PROPERTY IMPACTS: Is the agency proposing to deny the application or condition the approval in a way that restricts the use of the regulated person's private property? If not, no further analysis is required.	[N]

IMPACTS ON THE HUMAN ENVIRONMENT	
RESOURCE	[Y/N] POTENTIAL IMPACTS AND MITIGATION MEASURES
22(c). PRIVATE PROPERTY IMPACTS: If the answer to 21(b) is affirmative, does the agency have legal discretion to impose or not impose the proposed restriction or discretion as to how the restriction will be imposed? If not, no further analysis is required. If so, the agency must determine if there are alternatives that would reduce, minimize or eliminate the restriction on the use of private property, and analyze such alternatives. The agency must disclose the potential costs of identified restrictions.	[N]

23. **Description of and Impacts of other Alternatives Considered:** None

24. **Summary of Magnitude and Significance of Potential Impact:** None

25. **Cumulative Effects:** None

26. **Preferred Action Alternative and Rationale:** The preferred action is to reissue the MPDES permit. This action is preferred because the permit program provides the regulatory mechanism for protecting water quality by enforcing the terms of the MPDES permit.

Recommendation for Further Environmental Analysis:

☐ EIS ☐ More Detailed EA ☒ No Further Analysis

Rationale for Recommendation: An EIS is not required under the Montana Environmental Policy Act (MEPA) because the project lacks significant adverse effects to the human and physical environment. All of the anticipated effects to the physical and human environment will be mitigated or eliminated during project implementation.

27. **Public Involvement:** A 30-day public comment period will be held.

28. **Persons and agencies consulted in the preparation of this analysis:** None

EA Checklist Prepared By:

EA prepared by: John Wadhams
Date: November 2006

Approved by:

Bonnie Lovelace, Bureau Chief
Water Protection Bureau

Date

Attachment
Private Property Takings Assessment and Discussion:

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

Does the proposed agency action have takings implications under the Private Property Assessment Act?

SM: Rev.1

Query	YES/NO	Remarks/Justification
1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights?	No	
2. Does the action result in either a permanent or indefinite physical occupation of private property?	No	
3. Does the action deprive the owner of all economically viable uses of the property?	No	
4. Does the action deny a fundamental attribute of ownership?	No	
5. Does the action require a property owner to dedicate a portion of property or to grant an easement?	No	(If NO, then skip to (6).)
a. Is there a reasonable, specific connection between the government requirement and legitimate state interests?		
b. Is the government requirement roughly proportional to the impact of the proposed use of the property?		
6. Does the action have a severe impact on the value of the property?	No	
7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally?	No	(If NO, then skip to (8).)
a. Is the impact of government action direct, peculiar, and significant?		
b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded?		
c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question?		
8. Do taking or damaging implications exist? ⁽¹⁾	No	
Taking or damaging implications exist if the answer to questions 5a or 5b is NO, or if the answer to any other question is YES.		

⁽¹⁾ If taking or damaging implications exist the agency must comply with § 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.